IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2854 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VANITABEN T RATHOD - Petitioner(s)

Versus

UNION OF INDIA & 3 - Respondent(s)

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Appearance :

MR TR MISHRA for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

MR SAMIR J DAVE for Respondent No(s).: 1.

MR PRANAV G DESAI for Respondent No(s).: 2,3.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 17/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 14.2.2000 passed by respondent no. 1, whereby the dispute was rejected for making Reference, without referring the

same to the Industrial Tribunal for adjudication.

2. The short facts of the case are that the petitioner was initially appointed as Sub-staff in the respondent Bank in the year 1982. During the period from 1992-1994, the petitioner worked as a temporary Sub-staff in various branches of the respondent Bank.

2.1. It is the case of the petitioner that in the year 1997, though her name appeared in the waiting lists of selected candidates, she was not given appointment on regular basis. The said waiting lists was subsequently annulled.

2.2. Since no satisfactory reply was given by the authorities of the respondent Bank, the petitioner raised an industrial dispute before the Conciliation Officer, Baroda. Thereafter conciliation proceedings were held and the Conciliation Officer submitted the failure report on 5.11.1999 to respondent no. 1, whereby respondent no. 1 rejected the Reference without referring the same to the Industrial Tribunal, for adjudication. Hence, this petition.

3. Mr. Mishra learned advocate for the petitioner has contended that respondent no. 1 has exceeded its jurisdiction in holding that the petitioner is not a workman as defined under the Industrial Disputes Act, 1947 . He has further contended that the dispute in question is over illegal termination of services, which requires to be adjudicated and therefore, the impugned order at annexure-A deserves to be quashed and set aside.

4. I have heard the learned advocates for the respective parties. Having perused the materials placed on record, it appears that respondent no. 1 has travelled beyond the scope of the provisions of the Industrial Disputes Act. Since the dispute in question is over illegal termination of services, it is required to be adjudicated by the Industrial Tribunal. Hence, the impugned order at annexure-A deserves to be quashed & set aside.

5. In the premises aforesaid, the petition is allowed. The order dated 14.2.2000 passed by respondent no. 1 is quashed and set aside. Respondent no. 1 is directed to refer the dispute in question to the Industrial Tribunal

for adjudication afresh. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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